

Annex A: Desirable features of third party managed accounts

In considering whether the arrangements provided by a third party managed account are suitable, the SRA will take account of a number of factors, some of which will be more or less relevant depending on the characteristics of any particular third party managed account.

The list below is indicative only, and sets out an initial SRA view on the types of factors that we may take into account. The SRA reserves the right to refuse approval of any third party managed account arrangements, and/or to limit the use of third party managed accounts to certain purposes only.

1. The third party is independent of and not associated with the other parties.
2. The status and ownership of the third party is transparent
3. The third party is the beneficial owner of the funds held in the third party managed account.
4. The account is held at a specified bank or building society at a specified branch or location within England and Wales
5. The payment service is authorised or regulated by the Payment Systems Regulator [or equivalent supervisory authority] and is in good standing with the authority.
6. The funds are held separately from other funds of the third party and are held in a specified account, which is clearly identified and held on a basis which will protect those funds on the insolvency of the third party.
7. The client's contractual rights to be paid or repaid monies in the account are clearly set out
8. The arrangements only relate to payments directly related to the provision of legal services by the solicitor/entity to the client
9. Funds held in the account are clearly identifiable, and referenced to the client and solicitor/entity
10. Accurate records are kept of all transactions and provided to all parties on a regular basis and on the occasion of each transaction
11. Clear provisions are made as to the rate, responsibility for and payment of fees, and to the payment of interest on monies held

12. Clear provisions are made for termination of the arrangement and the processes to be followed
13. Clear provisions are made as to the mechanism to be adopted in relation to payments from the account and the need for consent and the ability to withhold consent and dispute such payments before they are made.
14. There are clear mechanisms for dealing with disputes, including complaint resolution mechanisms and the right to refer to any Ombudsman (eg FOS).
15. The third party has arrangements to safeguard client's funds including insurance for negligence, fraud, criminal activity and an agreement to compensate for loss resulting from mismanagement of the account/breach of contract/negligence.
16. There is transparency regarding whether monies are covered by the Financial Services Compensation scheme, and the extent to which that cover is adequate in the particular circumstances.
17. There are limits on the amount of payments that may be made.
18. Arrangements are made to ensure the client fully understands how the process works.
19. Any electronic access in order to utilise the payment services is subject to an appropriate level of security.